

REMARKS

In response to the Office Action mailed on April 20, 2006 (also referred to herein as the "Office Action"), Assignee respectfully requests reconsideration based on the following amendments and remarks. In the Office Action, the United States Patent and Trademark Office (the "Office") rejected claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0046099 to *Frengut et al.* (also referred to herein as "*Frengut*"), rejected claims 4, 5, 12-14, 25, and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent Publication No. 2002/0144259 to *Gutta et al.* (also referred to herein as "*Gutta I*"), rejected claims 17, 37, and 38 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent Publication No. 2002/0144259 to *Gutta et al.* (also referred to herein as "*Gutta II*"), and rejected claims 36 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent No. 6,025,869 to *Stas et al.* (also referred to herein as "*Stas*").

Claims 1, 4-11, and 13-47 are pending in the application. Claims 2, 3, and 12 are canceled without prejudice or disclaimer. Claims 45 and 46 are new claim supported by the specification.

The Assignee responds to each of above rejections, makes amendments to address some of the rejections, and shows that claims 1, 4-11, and 13-47 are not fully disclosed in the cited reference(s) nor are the pending claims anticipated, nor obviated, by the cited reference(s). Consequently, the Assignee respectfully submits that the pending claims (claims 1, 4-11, and 13-47) are ready for allowance.

June 13, 2006 Interview:

On June 13, 2006, Examiner Michael Van Handel and SPE Chris Kelly met via teleconference with Bambi Walters (Attorney for Assignee) to discuss the April 20, 2006 Office Action and the cited art. Participants discussed that the reference to *Frengut* is limited to a customized interface to a computer network triggered by "conventional means" and not via

“remote presence detection. Further, participants discussed limitations of *Gutta #1* to “focus” on the user of a media player and that the assertion that the “setting time of day preferences” in *Gutta #2* did not equate to a “time field to store at least one of time value and a time range value. Finally, the participants discussed distinguishing features of the claimed subject matter – that is, “time value” and “time range” – as distinguishing features over *Stas*. Participants did not agree on allowability; however, participants did agree to claim amendments to overcome the cited references.

§102 Rejection:

The Office rejected claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44 under 35 U.S.C. 102(e) as being anticipated by *Frengut*. A claim is anticipated only if each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter “M.P.E.P.”). As the Assignee shows, however, the reference to *Frengut* fails to include every element of the pending claims. The reference to *Frengut*, then, does not anticipate the claimed subject matter, and Assignee respectfully requests that the Office remove the 35 U.S.C. § 102 (e) rejection and allow claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44.

Claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44 are not anticipated. Claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44 recite, or incorporate, features not taught or suggested by the *Frengut*. For example, independent claims 1 and 15 are reproduced below:

1. A system for remote presence recognition information delivery, the system comprising:
 - an information delivery system; and
 - a remote presence detector coupled to the information delivery system, the remote presence detector detecting presence of a user in a vicinity proximate to the information delivery system while the user is not in physical contact with each of the information delivery system and the remote presence detector, the remote presence detector creating a presence indicator, the remote presence detector further communicating the presence indicator to the information delivery system,

the information delivery system executing an information delivery action, the information delivery action comprising a time value for executing the action, and a time range value for maintaining the action.

15. A system for remote presence recognition information delivery, the system comprising:
- an information delivery system including
 - a processor, and
 - a memory coupled to the processor, the memory storing user profile data and a plurality of instructions configured to be executed by the processor, the plurality of instructions including presence detector instructions; and
 - a remote presence detector coupled to the information delivery system, *the remote presence detector detecting presence of a user in a vicinity proximate to the information delivery system while the user is not in physical contact with each of the information delivery system and the remote presence detector, the remote presence detector creating a presence indicator, the remote presence detector further communicating the presence indicator to the information delivery system, the information delivery system configured to execute an information delivery action, the information delivery action comprising a time value for executing the action, and a time range value for maintaining the action.*

U.S. Patent Application 10/026,835, independent claims 1 and 11 (emphasis added by Assignee to illustrate exemplary claimed subject matter not disclosed or otherwise suggested by *Frengut*).

Frengut, however, does not teach or otherwise suggest the claimed subject matter of the claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44. Rather, *Frengut* discloses:

[0027] Referring to FIG. 1A, the underlying infrastructure uses the Internet 68 and includes a host computer 58, one or more databases 50-56, the users 66, and optionally advertiser servers 62. The host server 58 performs the various processes including setting up, generating and updating customized web pages, storing and managing the potentially voluminous user and advertiser data, and implementing special features or services. Communication between the host server 58 and users 66 is transmitted through the Internet 68. The data is organized in a plurality of databases including, for example, user profiles 50, ad profiles 52, content 54, and statistics 56. User profiles contain the information provided by the user that indicates the user's preferences about customized Website ranging from substantive to formatting information. The user provides this information by, for example, connecting to the host 58 through the Internet 68 completing and submitting forms. Ad profiles contain information from the advertiser, or system or both, identifying the type of ad that is associated and optionally indicating the advertisers intended targeted audience for the ad.

Preferably, the advertiser provides the information for the ad profile. Alternatively, the host may compile such information either automatically or with assistance from personnel. Ads, as used in this context, need not be limited to promotional data. Content database 54 contains substantive data files from advertisers and URL's referencing data files. Content may also be stored and hosted by another server 62, using another database 64. Optionally, as the method is implemented, the host compiles statistics about its users, ads, and advertisers, which may be stored in the statistics database 56. The host strictly controls the use of the statistics information, restricting third parties to access that information.

[0028] In the preferred embodiment a host web site provides users and advertisers with the general services and utilities needed for utilizing the system. Referring to FIG. 1B, from the host web site 110, users may access the set-up page 112, which guides the user in setting up an account and user-profile. From the set-up page, the user may access the customize page 124 where the user may access the various pages that enable the user to set the user preferences regarding substance and format of his/her custom page. An account page 126 is provided to solicit information about the user which typically includes at least a user name and password. The layout page 128 is provided to solicit information about the format of the custom web page. Substantive content for the page may be conceptually divided into (1) content featured on the Internet and (2) services supported by various applications operating on the Internet. The features page 130 is provided to solicit information about the Internet content desired. This page allow users to specify which retailers they are most interested in, as well as what types of promotions and information they want presented on their web page. The user's preferences about content may be defined in a variety of ways, for example, according to product, service, brand name, type of merchant, or information topic. The user may employ a combination of these ways, i.e., listing favorites in more than one category. The users' specifications about the features effect which ads are eventually presented on the custom generated web pages. The services page 132 is provided to solicit information about the services or application programs the user desires. Services include for example, e-mail, local specific information, messaging, and other Internet program. On each of these four pages, the user is further guides to provide the information about the user's preferences that the host compiles in a user profile and uses to generate the customized web pages for the user.

[0029] Typically the customized interface is not a single web page, but a web site having a collection of web pages with one page designated as the home page. The users' customized web pages are typically generated dynamically in real time (hence depicted in phantom) and may be organized as follows: For example, a custom web site may include a user home page 140, a features page 142, and services page 148. Pages accessible from the features page may include the favorite merchants page 144, favorite offers page 146, and favorite interests page 147. For example, elected merchants 144 may be a selection of well known retailers; special offers 146 may be discounts at particular retailers or on certain

services; and favorite interest 147 may be scores for select spectator sports, stock prices, advance notice of traveling shows and special programs at the public library. The information on the features page may be particularly specified by the user or favorite by the host based on the data in the user's profile, or based on some combination thereof. From the services page, various services may be launched, for example, e-mail, news, weather, local information, message board, calendar, and greeting cards. Alternatively, some or all of the features and services may be accessible directly from the home page. Every time the user accesses his or her customized web site, it is generated in real-time according to the most current information in the various system databases, including the user's preferences and the information in the other databases satisfying any of the user's preferences.

[0030] More specifically, the method of the preferred embodiment is outlined with reference to FIGS. 2-8. Referring to FIG. 2, initially the user registers or subscribes with the service provider to establish an identity, e.g., an account, and enters his/her preferences regarding page layout, page content, and the various available services. At step 220, the user accesses the system web site using conventional means of Internet access. At step 222, the system determines whether the user is registered. If the user is not registered, at step 224 the system interfaces with the user to register the user. Registration involves establishing a username and password by which to identify the user. If the user is registered, at step 226, the system determines whether this instance is the first time the user is accessing the web site, in other words whether the user has previously set up an account. If this is the user's first time, at step 228 the system displays a set-up-page to facilitate setting up an account and customized web site. At step 230 the user enters account information that includes, for example, username, password, and zip code. At step 232 the system displays the customize page from which the user may enter or edit any information about itself or its preferences. The customize page may organize the way information is received from the user. The information may be categorized as, for example: account, layout, features, and services. For each category, the host may provide additional web pages with forms or other input receiving techniques to assist the user in entering his/her preferences and other information. The user may enter or change his/her information at any time, at step 234. The information from the user is compiled in a user profile and stored in a database. Upon completion of entering or editing the users information, the host prepares to display the custom home page for the user. At step 236, the host retrieves the user's profile. At step 238, the host formulates or generates the user's custom home page according to the user's profile, and at step 240, the host displays the customized user home page. The user's custom home page is generated in real-time using dynamic publishing techniques, described below.

U.S. Patent Publication 2002/046099, see also, independent claims 23, 27, 32, 39, 41, and 43 (emphasis added by Assignee).

Frengut fails to disclose, teach, or otherwise suggest: (1) *remote presence detector detecting presence of a user in a vicinity proximate to the information delivery system while the user is not in physical contact with each of the information delivery system and the remote presence detector, the remote presence detector creating a presence indicator*, (2) *the remote presence detector further communicating the presence indicator to the information delivery system, the information delivery system executing an information delivery action*, and/or (3) *the information delivery action comprising a time value for executing the action, and a time range value for maintaining the action*.

For these reasons and others, *Frengut* is limited to a "conventional means" of accessing the Internet. Consequently, *Frengut* does not include each and every element of claims 1-3, 7-11, 15, 16, 18-24, 27, 32-35, and 39-44, and the Assignee respectfully requests that the rejection of these claims be removed.

§103 Rejection:

The Office rejected claims 4, 5, 12-14, 25, and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent Publication No. 2002/0144259 to *Gutta I*, rejected claims 17, 37, and 38 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent Publication No. 2002/0144259 to *Gutta II*, and rejected claims 36 under 35 U.S.C. § 103(a) as being unpatentable over *Frengut* in view of U.S. Patent No. 6,025,869 to *Stas*. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). Further, as the Assignee shows the combinations of the cited references fail to teach, suggest, and/or otherwise motivate all of the claimed limitations of the independent claims. The *prima facie* cases for obviousness, then, must fail.

As discussed during the interview *Gutta #1* discloses that the A/V device “focus[es]” on the user of a media player. See, Fig. 3 providing rules criteria that include: “user leaves room, user remains out of room for predefined time, user is not paying attention to media presentation, user is on telephone, user is speaking to someone, ..., user issue predefined gestural command to change a setting of media player” The Office used *Gutta #1* to disclose “visible light spectrum detector”; however, the passage cited in *Gutta #1* as well as the subject matter of *Gutta #1* do not even remotely suggest a visible light spectrum detector. And, *Gutta #2* is limited to generating recommendations for viewing television programs based on past viewing patterns and preferences of a subscriber. The Office uses the description of “setting time of day preferences” in *Gutta #2* to equate to “a time field to store at least one of a time value and a time range value” as claimed in the U.S. Application 10/026,835; however, these two descriptions are quite different. *Stas* discloses controlling viewing during “specified times, on the specified channels, and within the time limit,” the “time limit on the number of viewing hours per day, week, or month”. However, U.S. Application 10/026,835 uses “time value” or “time range value” to select content for delivery (e.g., if it is 9:00 AM, then “Good Morning America” could be selected).

For these reasons and others, the references to *Gutta #1*, *Gutta #2*, and/or *Stas*, do not cure the deficiencies of *Frengut* as described above. That is, the combination of the cited references however, do not teach, suggest, and/or otherwise disclose the subject matter of independent claims 4, 5, 13-14, 17, 25, 29-31, 36, 37, and 38. The Assignee, then, respectfully asks the USPTO to remove the §103(a) rejections and allow these claims.

NEW CLAIMS

In this amendment and response, Assignee adds new claims 45-47. Support for these new claims is found throughout Assignee’s specification. Claims 45-47 are allowable over the cited art because claims 45-47 respectively depend from independent claim 1, 15, or 23, which are allowable over the cited reference for the reasons set forth above and others.

**PETITION FOR EXTENSION OF TIME &
AUTHORIZATION FOR PAYMENT OF FEES**

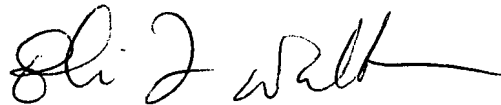
Assignee respectfully requests an additional three month extension of time fee for the Response to the April 20, 2006 Office Action from July 20, 2006 to the three month extension of October 20, 2007. Accordingly, Assignee includes payment for \$1,020.00 for the extension of time fee.

Description of Fee	Amount
Three Month Extension of Time Fee	\$1020.00
Total	\$1020.00

Furthermore, if there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

If any questions arise, the Office is requested to contact the undersigned at (757)-253-5729 (office), (757)-784-1978(Cellular) or bambiwalters@cox.net.

Respectfully submitted,



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